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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,574	03/17/2006	Edeltraud Blaeser	283578US0PCT	2746
22850	7590	08/03/2009	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ZAREK, PAUL E	
			ART UNIT	PAPER NUMBER
			1617	
			NOTIFICATION DATE	DELIVERY MODE
			08/03/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/572,574	<b>Applicant(s)</b> BLAESER ET AL.	
	<b>Examiner</b> Paul Zarek	<b>Art Unit</b> 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/17/2006</u> .  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1-18 have been amended by the Applicant in correspondence filed on 03/17/2006. Claims 1-18 are currently pending. This is the first Office Action on the merits of the claim(s).

### ***Election/Restrictions***

2. Applicant's election without traverse of ethoxylated amines of formula (I) in the reply filed on 10/31/2008 is acknowledged. Claim 4 is withdrawn as being drawn to a nonelected species. Claims 1-3 and 5-18 are examined herein.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: Claim 1 contains the word "sub-stances." The objection is because this word should not be hyphenated. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-3 and 5-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Viscovitz (International Application no. WO 01/30315, provided in IDS) in further view of Kipp, et al., (US PreGrant Publication no. 2004/0022862).

7. Claim 1 of the instant application is drawn to a skin cleansing agent comprising:
- a) 1-70 wt-% of an ethoxylated amine and/or ethoxylated diamine, of which ethoxylated amine of formula (I) (i.e. PEG-15 cocamine) is the elected species,
  - b) 30-70 wt-% of at least one polyethylene glycol with up to 150 oxyethylene moieties,
  - c) 1-30 wt-% of at least one fatty alcohol polyglycol ether,
  - d) 0.1-5 wt-% of at least one complexing agent
  - e) 0-30 wt-% of at least one reducing or oxidizing agent,
  - f) 0-25 wt-% of one or more abrasives,
  - g) 0-10 wt-% of at least one polyhydric alcohol,
  - h) 0-3 wt-% water,
  - i) optionally one or more viscosity-building agents (aka thickeners), and,
  - j) optionally further cosmetic adjuvants.

Claims 2 and 3 limit the ethoxylated amine, within which PEG-15 cocamine is encompassed.

Claims 5 and 6 limit the amount and type, respectively, of polyethylene glycol. Claims 7 and 8 limit the amount and type, respectively, of the fatty alcohol polyglycol ether. Claims 9 and 10 limit the amount of the complexing agent. Claims 11-14 limit the amount of the oxidizing or reducing agents (Claim 11), the type of reducing agent (dithionite or sodium dithionite, Claims 12 and 13, respectively), and the type of oxidizing agent (perborate salt, Claim 14). Claim 15

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limits the amount of abrasives. Claim 16 limits the amount and type of polyhydric alcohol. Claim 17 limits the viscosity-building agent. Claim 18 limits the additional components of component j).

8. Viscovitz teaches a skin cleansing composition for the removal of ink, comprising a peroxide releasing agent (oxidizing agent), such as percarbonate, and a low molecular weight alcohol (pg 1, lines 4-9). Viscovitz also teaches the presence of polyhydric alcohol, preferably having between 1 and 12 carbons (pg 6, lines 13-15), polyethylene glycol, in general, as the solvent (pg 6, lines 23-25), abrasives, (pg 7, lines 5-30, thickeners (aka viscosity-building agents), which can be abrasives of (pg 7 line 31 to pg 8, line 7), ethoxylated and propoxylated fatty alcohols as a surfactant (aka fatty alcohol polyglycol ether) (pg 8, lines 11-18), pH adjusters (pg 8, lines 19-24), and chelating (aka complexing) agents, such as EDTA (pg 8, lines 25-28). Viscovitz teaches that the disclosed composition contains no water, and that water is not expected to materially affect the nature of the composition (pg 9, lines 10-14). When discussing the prior art, Viscovitz disclose that ink-removing agents, such as Reduran® utilize reducing agents (pg 2, lines 17-22). Thus, Viscovitz teaches all of the components of the instantly claimed invention for a composition possessing the same utility (e.g. skin cleanser for the removal of ink) as the present invention. Viscovitz does not teach the claimed weight percentages, specify a low molecular weight PEG, or explicitly contemplate the elected species.

9. The elected species, PEG-15 cocamine, is well known as a pH adjuster (see Chiaralli, et al., US PreGrant Publication no. 2003/0147825, para 0109). One of ordinary skill in the art would immediately recognize that the elected species could be included in the composition of Viscovitz. Kipp, et al., teach that numerous polyethylene glycols, all of which read on

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component b), are well-known solvents (para 063). Adjusting the relative weight percentages of the components is considered routine optimization, within the purview an art worker. Generally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. “[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955) (MPEP § 2144.05(II)(A)).

Therefore, the claimed invention would be considered *prima facie* obvious over Viscovitz by one of ordinary skill in the art at the time the invention was made.

### ***Conclusion***

10. Claims 1-3 and 5-18 are rejected.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Zarek whose telephone number is (571) 270-5754. The examiner can normally be reached on Monday-Thursday, 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PEZ

/San-ming Hui/  
Primary Examiner, Art Unit 1617